

Health Insurance Commission Regulations (Amendment) 1998 No. 103

EXPLANATORY STATEMENT

STATUTORY RULES 1998 NO. 103

Issued by the Authority of the Minister for Health and Family Services

Health Insurance Commission Act 1973

Health Insurance Commission Regulations (Amendment)

The Health Insurance Commission Act 1973 (the Act) provides for the functions of the Health Insurance Commission (HIC).

Subsection 8AA(2) of the Act provides that the HIC shall perform such functions as are prescribed.

Section 44 of the Act provides for the Governor-General to make regulations for the purposes of the Act.

Regulation 3 of the Health Insurance Commission Regulations (the Regulations) deals with functions of the HIC in the area of investigations relating to inappropriate practice. 'Inappropriate practice' has the same meaning as in Part VAA of the Health Insurance Act 1973 (the HI Act).

Originally Divisions 3 and 3A of Part V of the HI Act contained provisions relating to the now defunct Medical Services Committees of Inquiry and Optometrical Services Committees of Inquiry. Included in these Divisions were certain offence provisions directed at conduct connected with these Committees -for example, failure to appear on a summons, witness refusal to answer a question.

The Health Legislation (Professional Services Review) Amendment Act 1994 (the amendment Act) repealed divisions 3 and 3A of Part V of the HI Act and included transitional provisions (Part 4 of the amendment Act) to cover then current referrals and continuation of unconcluded matters. All Medical Services Committees of Inquiry and Optometrical Services Committees of Inquiry have long since been concluded.

The amendment Act substituted a new inquiry regime (including establishment of Professional Services Review Committees), under Part VAA of the HI Act. As with the earlier inquiry scheme, there are specific offence provisions here directed at conduct connected with these Committees.

Further, some additional offences relating to Committee functioning (for example, failure to produce documents, obstruction of the Committee) were inserted in the HI Act by the *Health Insurance Amendment Act (No. 1) 1997*.

Previous subparagraph 3(2)(c)(ii) of the Regulations, which included references to the repealed offence provisions, is now being omitted. A new subparagraph 3(2)(c)(ii) is substituted which contains appropriate references to current offence provisions.

Details of the Regulations are set out in the Attachment.

The Regulations commenced on gazettal.

ATTACHMENT

Details of Amendments to Subparagraph 3(2)(c)(ii)

The purpose of the amendment to subparagraph 3(2)(c)(ii) of the Health Insurance Commission Regulations is to remove references to repealed offence provisions and to substitute references to the current offence provisions.

Specifically:

- * **subregulation 1.1** - provides for the amendment of the Health Insurance Commission Regulations (the Regulations), as set out below.
- * **subregulation 2.1** - provides for the omission of subparagraph 3(2)(c)(ii) and substitution of a new subparagraph. New subparagraph 3(2)(c)(ii) no longer contains reference to certain now-repealed offence provisions, but now contains reference to the equivalent current offence provisions of the *Health Insurance Act 1973*, namely:
 - **section 106D** - failure to appear on a summons at a hearing;
 - **section 106EA** - obstructing or hindering the Committee or disrupting a hearing;
 - **subsection 104(4)** - giving of false or misleading evidence by a person under review;
 - **subsection 104(4A)** - failure by a person under review to appear at a hearing and produce notified documents;
 - **subsection 105A(3)** - failure by a person to produce notified documents prior to a hearing;
 - **subsection 105A(5)** - knowingly producing a document containing a false or misleading statement;
 - **subsection 106E(1) - refusal** to be sworn or answer questions by a person appearing as a witness;
 - **subsection 106E(2)** - giving of false or misleading evidence by a person.

References to offences under section 23DP and subsections 19D(2) and 19D(7) in the previous subparagraph 3(2)(c)(ii) are maintained in the new subparagraph 3(2)(c)(ii).

